IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 26680 of 2003

Between:

1 Dr.P.Karunakara Rao, M.Sc., Ph.D., S/o P.Muthaiah,
Department of Botany, University of Arts and Science College,
Kakatiya University, Warangal.
2 S.Narasimha Chary, M.Com.(Ph.D) SLET, S/o Rajasekhar,
Department of Commerce and Business Management, University Arts and Science College, Kakatiya University, Warangal.
3 Dr.Damayanthi, M.Sc.,Ph.D. D/o Harisankar,
Department of Zoology, University Arts and Science College,
Kakatiya University, Warangal.
4 G.Naresh, M.Com. (Ph.D) SLET, S/o Bhoomaiah, Contract Lecturer,
Department of Commerce and Business Management, University Arts and Science College, Kakatiya University, Warangal.
5 Dr.Y.Venkaiah, M.Sc., Ph.D. S/o Samelu,
Department of Zoology, University Arts and Science College,
Kakatiya University, Warangal.

..... PETITIONERS

AND

1 Kakatiya University, rep.by its Registrar, Warangal.
2 The Government of Andhra Pradesh, Rep.by its Principal Secretary to Government,
Higher Education Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in notifying only 35 posts of Assistant

Professors /Lecturers in advertisement No.2/2003 dated 10-10-2003, for being filled up, though nearly 140 vacancies are available in the category of Professors/Associate Professors, Assistant Professors as arbitrary, illegal, malafide, amounting to colourable exercise of power, thus defeating the roster points as applicable to the 1st respondent and issue a consequential direction to the 1st respondent to fill up all available sanctioned posts in all categories of teaching staff by declaring letter No.102/OE.1-2/96-6, dated 1.10.1996 as without jurisdiction and ultravires the powers of the 2nd respondent.

(The prayer in the writ petition is amended as per Court order, dated 03.11.2004 in W.P.M.P.No.20002 of 2004.)

Counsel for the Petitioner:MR.C.V.MOHAN REDDY

Counsel for the Respondent NO.1: MR.B.NARAYANA REDDY, GP FOR REVENUE

Counsel for respondent No.2: GP FOR HIGHER EDUCATION & G.P. FOR REVENUE.

The Court made the following :

O R D E R:

All the five petitioners who are working as Lecturers in different Departments in the Kakatiya University, filed this writ petition stating that from the year 1992 onwards, as there is no recruitment to the posts of Professors, Associate Professors & Assistant Professors/Lecturers in the University or any Department, the University resorted to appoint Part-time/Ad-hoc Lecturers for some time and therefore, they were appointed as Part-time Lecturers on contract basis for a meager remuneration.

The learned counsel for the petitioners brought to my notice that in a similar matter, a Division Bench of this Court while disposing of W.A.No.764 of 1998 & batch dated 11.09.2003, directed the University to conduct selections and consider the case of the respondents-part time Lecturers for regular appointment, after relaxing their age who have crossed the age limit for seeking appointment as Lecturers and also directed to complete the process of selection within a period of four months from the date of that order and if the selections are not completed within the time stipulated, the respondents are entitled to salary in the Grades, which are meant for Lecturers without further orders from the Court. Pursuant to the said directions of this Court, the appellant-University issued notification for filling up 35 vacancies for the recruitment of posts as Part-time Lecturers, who are respondents in the batch of appeals and also from the eligible candidates. Pursuant to the said orders of this Court, Kakatiya University issued notification No.938/A2/KU/2003/SPL-II, dated 10.10.2003, inviting applications from the eligible candidates for the posts of Assistant Professors in

different subjects. Thereafter, a Division Bench of this Court in W.P.No.6469 of 2001 & batch passed orders, dated 21.10.2003 holding that the matter in the batch of writ petitions and the earlier order passed by this Court in W.A.No.764 of 1998 is different and in no manner it will come to the rescue of the petitioners and thereby directed the respondent-University to permit the petitioners to participate in the process of selection and consider their cases for regular appointments, provided they possess the requisite qualifications after relaxing the age of those writ petitioners who have crossed the age limit for seeking appointment as Assistant Professors/Lecturers. It was also directed that the University shall take an appropriate decision in the matter and accordingly relax the age limit and shall bear in mind the same while issuing the notification inviting applications from the eligible candidates for selection and appointments as Assistant Professors/Lecturers in various departments. It was also made clear that the writ petitioners have to face the competition and shall have to compete with others for their selection and appointment as Assistant Professors/Lecturers. The University while issuing the notification shall take all the relevant factors into consideration including the roster points. The learned counsel for the petitioners submits that if only 35 vacancies are filled up, leaving the other existing vacancies, the interest of similarly situated persons may affect and therefore, the other existing vacancies may also directed to be filled up simultaneously.

The learned counsel appearing for the respondents submits that as the notification, dated 10.10.2003 is only in conformation of the orders of a Division Bench of this Court in W.A.No.764 of 1998 and batch and as the petitioners herein are not parties to that batch of writ appeals, it cannot be said that the said notification is arbitrary and illegal.

Following the judgment of a Division Bench of this Court in W.P.No.6469 of 2001 & batch, dated 21.10.2003, this Court passed orders in W.P.NO.8664 of 1998, dated

27.08.2004, directing the Osmania University to issue notification and fill up all the regular vacancies before the end of this academic year and complete the process of selection on or before 31.03.2005.

Both the learned counsel submits that none of the Part-time Lecturers working in the Kakatiya University are parties to the said batch of writ petitions and therefore, direction can be issued to the Kakatiya University to fill up all the existing vacancies in the University, by the end of January 2005.

In view of the above said submission, I am of the opinion that it is just and proper for the University authorities to takeup the selection process, for recruitment of all the existing vacancies included in the notification No.2 of 2003 and the notifications, which is going to be issued to fill up the remaining regular vacancies simultaneously on or before 31.1.2005.

In view of the facts and circumstances of the case, the writ petition is disposed of directing the respondents to issue a notification and fill up all the remaining regular vacancies and complete the process of selection on or before 31.01.2005. The respondents are also directed to permit the petitioners to participate in the process of selection and consider their cases for regular appointments, provided they possess regular qualification, after relaxing the age of the petitioners, who have crossed the age limit and seeking appointment as Assistant Professors/lecturers in various Departments. However, it is made clear that the writ petitioners will have to face the competition and shall have to compete with others for their selection and appointment as Assistant Professors/Lecturers. The University shall issue the notification taking into consideration all the relevant factors, including the roster point.

The writ petition is accordingly disposed of. No costs.

V.ESWARAIAH.J

03.11.2004

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ASSISTANT REGISTRAR

To

1 Registrar, Kakatiya University, Warangal.
2 Principal Secretary to Government, Government of Andhra Pradesh, Higher Education Department, Secretariat, Hyderabad.

3 2 CCs to the G.P. for Revenue, High Court of A.P., Hyderabad (OUT)

4 2 CCs to the G.P. for Higher Education, High Court of A.P., Hyderabad (OUT)

5 2 C.D.Copies.